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BAKER, MANOCK & JENSEN

A PROFESSIONAL CORPORATION

FIG GARDEN FINANCIAL CENTER  
5260 NORTH PALM AVENUE, FOURTH FLOOR  
FRESNO, CALIFORNIA 93704-2209

TELEPHONE (559) 432-5400  
TELECOPIER (559) 432-5620

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BY \_\_\_\_\_ DEPUTY CLERK *[Signature]*

FILED

2005 SEP 22 A 9:57

CLERK, US DIST. COURT  
EASTERN DIST. OF CALIF

BY \_\_\_\_\_

Attorneys for Non-Party Deponent Ryan Turner, Chief Operating Officer of Non-Party Pacific Ethanol, Inc.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
FRESNO DIVISION

In re: ) Case No.: CIV-F-02-6482 AWI SMS  
Greg Braun, Chapter 11 Trustee for )  
COAST GRAIN COMPANY, a California corporation, )  
Plaintiff, )  
v. )  
AGRI-SYSTEMS, a Montana Corporation, )  
Defendant. )

WHEREAS, Defendant AGRI-SYSTEMS, a Montana corporation, has issued that Subpoena and that Notice of Taking Deposition of Ryan Turner (Chief Operating Officer of Pacific Ethanol, Inc.) with Production of Documents attached hereto as Exhibit "A"; and

WHEREAS, Ryan Turner and Pacific Ethanol are not parties to the within litigation; and

WHEREAS, the testimonial and documentary evidence that may be sought in the Deposition Duces Tecum may include confidential proprietary information; and

WHEREAS, therefore, good cause exists for entry of protective order.

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1           Therefore, the undersigned parties to the within Stipulation (the "Parties"), by and  
2 through their respective counsel, hereby stipulate that the Protective Order set forth hereinbelow be  
3 entered by this Court.

4 DATED:     August 31, 2005.

DOAK & ASSOCIATES, P.C.

5  
6 By \_\_\_\_\_  
7 Jon Doak  
8 Attorneys for Defendant and Cross-  
Complainant AGRI-SYSTEMS

9 DATED:     August 31, 2005.

LAW OFFICES OF HENRY D. NUNEZ

10  
11 By \_\_\_\_\_  
12 Henry D. Nunez  
13 Attorneys for Defendant AGRI-SYSTEMS

14 DATED:     August 31, 2005.

KIMBLE, MacMICHAEL & UPTON

15  
16 By \_\_\_\_\_  
17 Steven D. McGee  
18 Attorneys for Complainant, Plaintiff, and  
Cross-Defendant GREG BRAUN,  
Chapter 11 ~~Trustee~~ for COAST GRAIN  
COMPANY, a California corporation  
*Plan Agent*

19 DATED:     August 31, 2005.

BAKER, MANOCK & JENSEN

20  
21 By \_\_\_\_\_  
22 John L.B. Smith  
23 Attorneys for Non-Party Deponent Ryan  
Turner, Chief Operating Officer of Non-Party  
Pacific Ethanol, Inc.

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## PROTECTIVE ORDER

## **Deposition Duces Tecum**

1. The Deposition Duces Tecum of Ryan Turner, Chief Operating Officer of Pacific Ethanol, Inc., regarding matters subsequent to the close of escrow on Pacific Ethanol's purchase of the real property subject to the within litigation, and the below-listed Exhibits produced in response to the Subpoena attached hereto as Exhibit "A," shall be marked "Confidential Pursuant to Protective Order," or words to that effect, and shall be deemed "Confidential Information":

As to documents requested to be produced, the following documents shall be subject to this Protective Order:

- a. Photographs taken after close of escrow on Pacific Ethanol's purchase of the subject property;
  - b. None;
  - c. Documents referring to inspection, examination, and/or testing requested by Pacific Ethanol following the close of escrow;
  - d. None;
  - e. All;
  - f. Documents regarding grain mill receiving condition, all after close of escrow; and
  - g. Documents regarding grain mill receiving performance, all after the throughput testing conducted after close of escrow.

2. At the request of counsel for any Party, all persons other than those to whom disclosure of confidential information is permitted under the terms of this Protective Order, shall be excluded from the deposition of Mr. Turner.

## **Use of Confidential Information at Hearings or Trials**

3. Any disclosure of Confidential Information subject to the within Protective Order shall be made only upon prior written notice to Ryan Turner, Chief Operating Officer of Pacific Ethanol, Inc., via telecopier at (559) 435-1478, with a copy to John L.B. Smith at Baker,

1 Manock & Jensen, via telecopier at (559) 432-5620, which notice shall be at least five (5) court  
2 days prior to such disclosure.

3       4. At any proceeding before the Court in connection with this Litigation,  
4 counsel for the Parties may, subject to the rules of evidence, disclose or refer to Confidential  
5 Information in accordance with the terms of this Protective Order unless otherwise ordered by the  
6 Court.

7       5. At the request of counsel for any Party, during that portion of any  
8 proceeding during which Confidential Information is to be disclosed or referred to, all persons to  
9 whom disclosure of Confidential Information is not permitted under the terms of this Protective  
10 Order shall be excluded from the Courtroom, if so ordered by the Court.

11       6. Counsel for any Party may send courtesy copies of documents containing  
12 Confidential Information to the Court so long as the envelope containing such documents indicates  
13 that the envelope contains Confidential Information subject to this Protective Order, and that such  
14 Confidential Information has been filed with the Clerk of the Court under seal.

15       7. If Confidential Information is included in any papers to be filed with the  
16 Court, the parties shall follow the procedures set forth in California Rules of Court, Rules 243.1  
17 through 243.2.

18       8. All Confidential Information shall be used solely by the Parties to the within  
19 Litigation for the purposes of such Litigation.

20       9. Nothing herein shall limit the dissemination of documents containing  
21 Confidential Information among counsel of record in this Litigation and their paralegals, clerical  
22 and secretarial employees, nor shall it limit the dissemination thereof by Mr. Turner, Pacific  
23 Ethanol, or their agents for any purpose whatsoever.

24       10. Confidential Information may be disclosed to or made available by counsel  
25 for the Parties to the within Litigation receiving such information into the following "Qualified  
26 Persons," as defined herein, or to such other persons as the Parties may agree in writing. For  
27 purposes of this Order, "Qualified Persons" means:  
28            ///

- a. The Court (and any Appellate Court), including Court personnel, jurors and alternate jurors subject to California Rules of Court, Rules 243.1 through 243.2;
- b. Court reporters;
- c. Counsel of record to the Parties to this Litigation, and the paralegal, clerical, and secretarial staff, and other persons employed or retained by such counsel;
- d. The named Parties to this Litigation;
- e. Outside photo-copying services;
- f. Experts, advisors or consultants (including their employees and support staff) retained by counsel of record in the Litigation; and
- g. Persons who counsel of record in good faith believe may be fact witnesses in this Litigation.

12           11. Prior to the disclosure of Confidential Information to any Qualified Person  
13 defined in Subparagraphs 10(d), 6(f), and 6(g), counsel of record for the Party proposing to make  
14 such disclosure shall ensure that a copy of this Order has been delivered to such person, that its  
15 terms have been explained to such person, and that the person has executed a Confidentiality  
16 Undertaking in the form attached hereto as Exhibit "B."

17           12. Nothing herein shall prevent any Party who has received Confidential  
18 Information pursuant to this Protective Order from producing such Confidential Information in  
19 response to a lawful subpoena or other compulsory process, provided that any Party receiving such  
20 subpoena or process (i) shall, pursuant to the notice requirements of Paragraph 3 hereinabove, give  
21 notice thereof to Ryan Turner, which notice shall include a copy of the subpoena or other  
22 compulsory process so as to afford him a reasonable opportunity to enforce this Protective Order;  
23 and (ii) if application to enforce this Protective Order is made before the return date, shall not  
24 produce, such Confidential Information prior to receiving a Court Order or the written consent of  
25 Mr. Turner.

26                   13. Compliance with the terms of this Protective Order shall not operate as an  
27 admission that any particular document or information is or is not confidential.

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1           14. The entry of this Protective Order does not waive any rights the Parties may  
2 have to object on any grounds to the use of any Confidential Information as evidence at any trial or  
3 hearing in this Litigation. Disclosure of any Confidential Information by any person or in any  
4 manner not permitted by this Protective Order shall not result in a waiver of or otherwise limit the  
5 right of the Parties to enforce the provisions of this Protective Order. Nothing contained herein  
6 shall constitute a waiver by any Party of the right to claim that information designated by any other  
7 Party as Confidential is not, in fact, Confidential.

8           15. After the conclusion of this Litigation, any Party's counsel and all other  
9 persons to whom Confidential Information shall have been disclosed shall not disclose or  
10 communicate to, or discuss with, any person any portion of such Confidential Information, unless  
11 such Confidential Information later becomes public knowledge and such public knowledge  
12 becomes known to the Party's counsel or such other persons.

13           16. Within ninety (90) days after the disposition of this action, all Confidential  
14 Information shall be returned to Mr. Turner, provided, however, that counsel shall be entitled to  
15 retain pleadings, memoranda, declarations or affidavits, or deposition transcripts which attach,  
16 contain or refer to any Confidential Information, but only to the extent necessary to preserve a  
17 litigation file with respect to these actions, subject to the terms of this Protective Order.

18 DATED: September 21, 2005.

  
THE HONORABLE ANTHONY W. ISHII  
JUDGE OF THE FEDERAL DISTRICT  
COURT

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**EXHIBIT A**

1 Henry D. Nunez, #063412  
2 Law Offices of Henry D. Nunez  
3 4478 West Spaatz Avenue  
4 Fresno, CA 93722  
5 Tel: (559) 437-9200  
6 Fax: (559) 437-3927

7 Attorney for Defendant

8  
9  
10 UNITED STATES DISTRICT COURT  
11 EASTERN DISTRICT OF CALIFORNIA  
12 FRESNO DIVISION

13 In re:  
14 Greg Braun, Chapter 11 Trustee for  
15 COAST GRAIN COMPANY, a California  
16 corporation

17 Plaintiff,  
18 V.  
19 AGRI-SYSTEMS, a Montana Corporation  
20  
21 Defendant.

Case No.: CIV-F-02-6482 AWI SMS

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**NOTICE OF TAKING DEPOSITION OF  
RYAN TURNER WITH PRODUCTION OF  
DOCUMENTS**

29  
30 Date: Wednesday August 31, 2005  
31 Time: 9:30 a.m.  
32 Place: Baker, Manock & Jensen  
33 5260 N. Palm Ave., Ste 421  
34 Fresno, CA 93704

35  
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**TO EACH PARTY AND TO EACH ATTORNEY OF RECORD IN THIS ACTION:**

39 PLEASE TAKE NOTICE, that pursuant to Rule 30 of the Federal Rules of Civil  
40 Procedure, Defendant AGRI-SYSTEMS will take the deposition of Ryan Turner, Chief  
41 Operations Officer (COO) of Pacific Ethanol Inc., before a certified shorthand reporter  
42 authorized to administer oaths under the laws of the State of California, at John L. B.  
43 Smith, Law Offices of Baker, Manock & Jensen, located at 5260 N. Palm Ave., Ste 421  
44 Fresno, CA 93704 Phone: 559-432-5400 commencing at 9:30 a.m. on Wednesday

45  
46  
47  
48 EXHIBIT "A"

1 August 31, 2005. Mr. Ryan's current business address is 5711 N. West Avenue,  
2 Fresno, CA 93711.

3 **NOTICE IS FURTHER GIVEN** that the matters on which the deponent will be  
4 examined involve the purchase by Pacific Ethanol and condition of the grain mill located  
5 at 31470 Avenue 12 in Madera County, California.

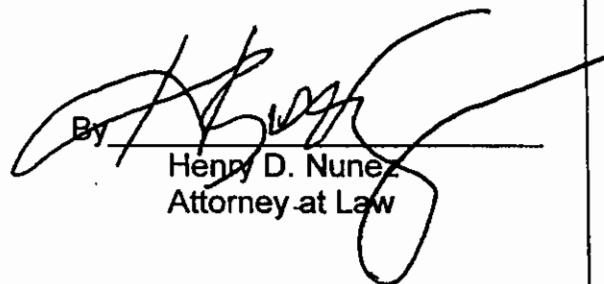
6 **NOTICE IS FURTHER GIVEN** that Mr. Turner is requested to produce at the  
7 time of the deposition, the documents described in exhibit "A" attached hereto.

8 Pursuant to Rule 30(b)(2), said deposition will be recorded stenographically and  
9 through the instant visual display of the testimony.

10 Pursuant to Rule 30(b)(2), said deposition will be recorded stenographically and  
11 through the instant visual display of the testimony.

12 If said deposition is not completed on said dates, the taking thereof will continue  
13 from day to day thereafter at the same place Sundays and holidays excepted, until  
14 completed.

15 Dated: August 25, 2005.

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19 By   
20 Henry D. Nunez  
21 Attorney at Law  
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**EXHIBIT A TO DEPOSITION SUBPEONA**

The following documents within the possession, custody, and/or control of the deponent, RYAN TURNER, are to be produced in connection with deposition scheduled for Wednesday August 31 at 9:30 a.m., at John L. B. Smith, Law Offices of Baker, Manock & Jensen, located at 5260 N. Palm Ave., Ste 421 Fresno, CA 93704

1. Any and all digital or other photographs of the Madera Project, and/or the buildings, improvements, machinery, equipment, fixtures or components of the project, whether taken by the deponent or others, at any time.
2. Any and all correspondence between GREG BRAUN and Pacific Ethanol, or any agent and/or trustee for either entity.
3. Any and all documents related to or referring to inspection, examination and/or testing of the Madera Project, or buildings, improvements, machinery, equipment, fixtures or components of the Project.
4. Any and all documents relating or referring to the purchase of the grain mill in issue, including but not limited to the purchase agreement, any addendum thereto, appraisal reports, environmental reports, and inspection reports.
5. Any and all documents relating to referring to the "Canola" fire, including but not, limited to insurance claims, repairs, reports

concerning the integrity and condition of the grain mill and/or  
inspection and investigation of damages.

6. Any and all documents referring or relating to reports concerning grain mill receiving condition and/or performance.

~~SAO88 (Rev. 1/94) Subpoena in a Civil Case~~

**Issued by the  
UNITED STATES DISTRICT COURT**

Eastern District of California

**In Re:**

**GREG BRAUN, CHAPTER 11 TRUSTEE FOR COAST GRAIN COMPANY, v. A California Corporation**

**AGRI-SYSTEMS, a Montana Corporation**

Case Number:<sup>1</sup> CIV-F-02-6482 AWI SMS

**TO: RYAN TURNER  
PACIFIC ETHANOL, INC.  
Fresno, CA 93711**

**YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.**

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

**YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.**

PLACE OF DEPOSITION John L.B. Smith; Baker, Manock & Jensen 5260 N. Palm Ave., Ste. 421  Fresno, CA 93704	DATE AND TIME 9:30 a.m. AUGUST 31, 2005
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**YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):**

**See Exhibit "A" attached hereto and incorporated by reference herein**

PLACE John L.B. Smith, Baker, Manock & Jensen 5260 N. Palm Ave., STE. 421  Fresno, CA 93704	DATE AND TIME 9:30 a.m. AUGUST 31, 2005
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**YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.**

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Henry D. Nunez, Attorney for Defendant	DATE AUGUST 25, 2005
---	-------------------------

**4478 W. Spaatz, Fresno, CA 93722 (559) 437-9200**

(See Rule 45, Federal Rules of Civil Procedure, Parts C & D on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

**EXHIBIT A TO DEPOSITION SUBPEONA**

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1. Any and all digital or other photographs of the Madera Project, and/or the buildings, improvements, machinery, equipment, fixtures or components of the project, whether taken by the deponent or others, at any time.
2. Any and all correspondence between GREG BRAUN and Pacific Ethanol, or any agent and/or trustee for either entity.
3. Any and all documents related to or referring to inspection, examination and/or testing of the Madera Project, or buildings, improvements, machinery, equipment, fixtures or components of the Project.
4. Any and all documents relating or referring to the purchase of the grain mill in issue, including but not limited to the purchase agreement, any addendum thereto, appraisal reports, environmental reports, and inspection reports.
5. Any and all documents relating to referring to the "Canola" fire, including but not, limited to insurance claims, repairs, reports

concerning the integrity and condition of the grain mill and/or  
inspection and investigation of damages.

6. Any and all documents referring or relating to reports concerning grain mill receiving condition and/or performance.

**EXHIBIT B**

1 EXHIBIT "B"

2  
3 UNITED STATES DISTRICT COURT  
4 EASTERN DISTRICT OF CALIFORNIA  
5 FRESNO DIVISION

6 In re: ) CASE NO. CIV-F-02-6482 AWI SMS  
7 Greg Braun, Chapter 11 Trustee for )  
COAST GRAIN COMPANY, a California )  
corporation, )  
Plaintiffs, )  
v. )  
AGRI-SYSTEMS, a Montana Corporation, )  
Defendant. )  
\_\_\_\_\_  
13

8 CONFIDENTIALITY UNDERTAKING

14 DECLARATION OF:

15 I, \_\_\_\_\_, declare:

- 16 1. My address is \_\_\_\_\_.
- 17 2. My present employer is \_\_\_\_\_ and the address of my present  
employment is \_\_\_\_\_.
- 18 3. My present occupation or job description is \_\_\_\_\_.
- 19 4. I have received a copy of the Protective Order in this case signed by  
20 Judge Ishii on \_\_\_\_\_.
- 21 5. I have carefully read and understand the provisions of the Protective Order.
- 22 6. I will comply with all of the provisions of the Protective Order.
- 23 7. I will hold in confidence and not disclose to anyone not qualified or  
24 designated under the Protective Order, any CONFIDENTIAL INFORMATION or any words,  
summaries, abstracts, or indices of CONFIDENTIAL INFORMATION disclosed to me.

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1           8. I will return all CONFIDENTIAL INFORMATION and summaries,  
2 abstracts, and indices thereof which come into my possession, and documents or things which I  
3 have prepared relating thereto, to counsel for the party by whom I am employed or retained.

4           I declare under penalty of perjury under the laws of the State of California that the  
5 foregoing is true and correct and that this declaration was executed on \_\_\_\_\_ at  
6 \_\_\_\_\_.  
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